SENATE RECORD VOTE ANALYSIS

104th Congress — March 21, 1996, 5:51 p.m.
2nd Session — **Vote No. 50** — Page S-2622 Temp. Record

LIVESTOCK GRAZING ON FEDERAL LANDS/Final Passage

SUBJECT: **Public Rangelands Management Act of 1995 . . . S. 1459. Final passage, as amended.**

ACTION: BILL PASSED, 51-46

SYNOPSIS: As passed, S. 1459, the Public Rangelands Management Act of 1995, will reform the rules governing livestock grazing on Federal lands. The Act will supersede the Department of the Interior's and the Department of Agriculture's rules governing grazing on lands administered by the Bureau of Land Management (BLM) and the Forest Service. The final rules promulgated by the Department of the Interior (60 Fed. Reg. 9894, et seq.) will no longer be effective. Grazing terms will be extended, and fees will be raised and adjusted according to a market-based formula. The "multiple use" principle for management of public lands will continue to be the guiding Federal principle--this bill will in no way restrict the use of, or access to, Federal lands for hunting, fishing, or other appropriate recreational and watershed management activities. Additional details are provided below.

- all "affected interests" will be notified of and given opportunity for comment and informal consultation on proposed decisions on grazing allotments;
- BLM and Forest Service land use plans will be developed in accordance with the National Environmental Policy Act (NEPA), including the requirement to develop an Environmental Impact Statement (EIS) for plans and amendments that constitute "major Federal actions" under NEPA (it takes 1.5 years and $1 million on average to complete an EIS); livestock grazing activities and management actions approved by an authorized officer, including such routine matters as issuing, renewing, or transferring grazing permits or leases, will not be deemed to be "major Federal actions" that require consideration under the NEPA;
- land use plans will specify grazing levels; restrictions that are placed on grazing allotments will be in accordance with land use plans;
- Federal agencies will be required to manage livestock grazing on Federal lands "under the principles of multiple use and sustained yield in accordance with applicable land use plans;"
- nothing in this Act will change other statutes that limit grazing levels, or that limit or prohibit grazing in National Parks, National Wildlife Refuges, or other areas;

(See other side)

YEAS (51)

Republicans (46 or 88%)		Democrats (5 or 11%)
Abraham	Hutchison	Baucus
Ashcroft	Inhofe	Conrad
Bennett	Kassebaum	Heflin
Bond	Kempthorne	Johnston
Brown	Kyl	Moynihan
Burns	Lott	
Campbell	Lugar	
Coats	Mack	
Cochran	McCain	
Coverdell	McConnell	
Craig	Murkowski	
D'Amato	Nickles	
Dole	Pressler	
Domenici	Santorum	
Faircloth	Shelby	
Frist	Simpson	
Gorton	Smith	
Gramm	Specter	
Grams	Stevens	
Grassley	Thomas	
Hatch	Thompson	
Hatfield	Thurmond	
Helms	Warner	

NAYS (46)

Republicans (6 or 12%)	Democrats (40 or 89%)	
Chafee	Akaka	Kennedy
Cohen	Biden	Kerry
DeWine	Bingaman	Kohl
Jeffords	Boxer	Lautenberg
Roth	Breaux	Leahy
Snowe	Bryan	Levin
	Bumpers	Lieberman
	Byrd	Mikulski
	Daschle	Moseley-Braun
	Dodd	Murray
	Dorgan	Nunn
	Exon	Pell
	Feingold	Pryor
	Feinstein	Reid
	Ford	Robb
	Glenn	Rockefeller
	Graham	Sarbanes
	Harkin	Simon
	Hollings	Wellstone
	Inouye	Wyden

NOT VOTING (3)

Republicans (1)	Democrats (2)
Gregg-[2]	Bradley-[2]
	Kerrey-[2]

EXPLANATION OF ABSENCE:
1—Official Buisiness
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

Compiled and written by the staff of the Republican Policy Committee—Don Nickles, Chairman

● monitoring and inspecting by agency personnel or approved consultants will be permitted; to the extent practicable, 48-hours notice will be given of any monitoring activities; the Secretaries of the Interior and Agriculture will review range monitoring data at least once every six years and will take any warranted corrective actions; State or regional monitoring protocols will be developed with input from the Resource Advisory Councils (RACs), State agencies, and academic institutions;

● State and regional rangeland health standards will be developed with the involvement of Federal agencies, RACs, State agencies, academic institutions, and the general public;

● cooperative agreements to improve rangelands may be entered into with grazing interests, individuals, organizations, or other Federal land users;

● no water rights on Federal land "shall be acquired, perfected, owned, controlled, maintained, administered, or transferred in connection with livestock grazing permits other than in accordance with State law concerning the use and appropriation of water within the State;"

● the term for Federal livestock grazing leases will be extended from 10 years to 12 years, though shorter leases will be given if the agency involved determines "that it would be in the best interest of sound land management to specify a shorter term;"

● the grazing fee formula will be simplified by basing it on the market price for livestock; the change will result in an approximately 37 percent increase in the current fee; subleasing will be allowed only under hardship cases and "coordinated resource management" cooperative agreements; the current grazing subleasing surcharge will be eliminated;

● the BLM and the Forest Service will issue regulations simultaneously, and will ensure that those regulations are consistent with each other;

● all affected interests will have the right to be notified of, and informally consulted on, proposed grazing decisions; only those individuals "adversely affected" within the meaning of the Administrative Procedures Act will be permitted to make administrative appeals or protests (essentially pre-decisional appeals) of Federal land managers' grazing decisions; and

● ranchers will be allowed to hold title to permanent improvements they make on BLM or Forest Service lands.

Those favoring final passage contended:

When the West was first settled, most of it was a vast wasteland. Vegetation and wildlife were extremely sparse. For the most part, both were concentrated along the few rivers and lakes that were found in this dry region. Settlers moved in and took the small areas of land that had water. The States then took the next best land. The remainder stayed in Federal hands. For most of the year, most of that Federal land was worthless because of the low amount of forage and the lack of water. Ranchers, though, gradually began to lease that land from the Federal Government. For the parts of the year that the land had some forage, they would move their herds onto it. In the early years, much of that sparse land was overgrazed from ignorance on how to maintain its value, but ranchers did not benefit from overgrazed land because it was not then useful for them in following years. They gradually improved their care of the land. From the middle part of this century on especially, their range management efforts not only preserved the range, they vastly improved it.

The improvements they have made, particularly in water management, have increased the amount of vegetation and animal life throughout the West. For instance, in Colorado the elk population increased from 3,000 in 1900 to 185,000 in 1990, and its deer population increased from 6,000 to 600,000. The same has happened in all the other Western States. The Federal Government is paid by ranchers to use the land, and they improve it tremendously at the same time. The difference in the land as it existed before the ranchers arrived and as it is now is readily seen by comparing pictures from the renowned William Henry Jackson's 1870 survey of the Wyoming Territory with current pictures of the same land. Most of those 1870s pictures show vast, barren areas; pictures of the same land today show healthy grasslands teeming with wildlife. The exceptions in Mr. Jackson's photographs were his pictures of Yellowstone. Those pictures were influential in gaining National Park status for that spectacular region.

Many of the original cowboy families that first settled in the West are still running ranches on Federal lands. Generation after generation of ranchers have gradually improved their knowledge of and care for the land. They are now victims of their own success. For decades they had the land pretty much to themselves, and they gradually improved it. The land was always open for multiple-use--for hunters, campers, recreational vehicle users, and others--but in these sparsely populated areas there were few such users. The number of those users has increased, but that increase has not caused problems. Ranchers and other traditional users of Federal lands have been able to coexist. However, one new "user" of the lands has emerged, the environmentalist, and that user has caused extreme problems.

Environmentalism has become a huge business in America. Giant fundraising organizations campaign for funds on the East and West Coasts, and their ability to raise funds is largely based on how willing they are to make wild and baseless claims of environmental damage. One claim that increasingly has been made by environmental groups is that ranchers are destroying Federal rangelands in the West. Environmentalists have taken note of the current beauty of those rangelands, they have noted with disapproval the "unnatural" presence of cows on those lands, and they have concluded that that presence is harmful.

The most extreme environmentalists simply do not want any human presence on those lands. They know that most of the land would once again become barren, but they applaud that result as "natural." For such environmentalists, the goal is to declare as much

land wilderness as possible, which makes it virtually inaccessible for everyone. Most environmental groups, and most Americans who contribute to them, do not call for this result, of course. The environmental groups claim that the health of the land would improve, not decline, if ranching were ended. This claim is eagerly believed by wealthy contributors, because when such contributors make rare sojourns to the West to sip chianti around campfires, they do not want their communion with nature to be sullied by the lowing of cattle.

The weapon chosen by environmentalists to try to stop ranching on public lands has been the courts. America's 22,000 ranching families have had their operations constantly disrupted, and in many cases bankrupted, by environmentalists who have filed countless frivolous appeals of the most routine of grazing decisions. For the price of a 32-cent stamp, college students and their professors at Eastern universities have filed these appeals. With the election of President Clinton, and the appointment of Secretary Babbitt, this war which environmentalists have been winning has nearly become a rout. Actions taken under this Administration have included an effort to end the primacy of State water law for water on public lands, an effort to make the NEPA apply to all grazing permit renewals (there are 22,000 permits and leases that generate $25 million in income for the United States; the cost of doing a single NEPA analysis is $1 million), and, most egregiously because it was successful, the promulgation of new grazing rules for the BLM that will make it impossible to graze on BLM lands.

The effect of those new grazing rules is only beginning to be felt. Ranchers are being denied loans because banks have no reason to believe that they will be able to have their permits renewed under the new regulations. In Colorado, many ranchers that have already gone broke because of the regulations are selling their private holdings to real estate developers, who are subdividing the land and putting up tract housing. For the most part, though, the new regulations have not yet been put into effect. We believe that Secretary Babbitt is waiting until after the presidential elections before he fully wields these regulations which we believe he deliberately designed to end all ranching on public lands.

This bill will stop those regulations and will stop the environmentalists unethical abuse of the administrative appeal process. It will state in unequivocal terms that Federal agencies will not try to gain control over water rights in contravention of State law, and it will codify exactly under what terms grazing permits and leases will be given, and how they will be challengeable. These changes should not be necessary. It should be enough to pass general laws, and have whatever Administration is in power faithfully follow congressional intent. With this Administration, and especially with this Secretary of Interior, though, passing a general law is not enough. The huge changes that were made in the grazing regulations were made as regulatory changes precisely because the Administration knew that it could not gain approval from Congress. Congress writes the laws--not the Secretary of Interior. We wrote this law in great detail because it was necessary to prevent its meaning from being twisted.

Specific complaints that have been raised by our colleagues against this bill include that it restricts the right to challenge administrative decisions, that it limits the application of the NEPA, and that it requires land management agencies to make grazing decisions in accordance with their land management plans. We see these as positive points. Only adversely affected interests, as defined under the Administrative Procedures Act, will have the right to challenge particular grazing decisions, such as where to place a water tank on a lease holding. We see nothing at all onerous about making land management agencies use the same procedures that other agencies use in determining who should have standing to file administrative appeals. Further, nothing in this bill will bar anyone access to the Federal courts. As for the application of the NEPA, that act was never intended to be applied to anything but "major Federal actions." Its application to lesser actions has not come about from legislative action, but from regulatory misapplication. This bill will correct that misapplication by specifying that the NEPA will only apply to overall land use plans, not to specific permits. We simply disagree with the third argument of our colleagues, which is that it is too restrictive to make land managers act in accordance with their land use plans. Without the requirements in this bill, there is too much uncertainty for ranchers. If they know the general framework within which land managers will make decisions affecting their grazing operations, they will be able to plan ahead, get loans, and generally operate their ranches on a rational basis. Land managers should not be allowed to make decisions on an ad hoc basis.

The reforms in this bill are meritorious, and they are overdue. Numerous compromise provisions have been included to balance the interests of ranchers and environmentalists. Unfortunately, though, this bill does not have enough support to override the President's threatened veto. The result will be that no reforms will be passed. Secretary Babbitt's regulations will stay in effect, and Western ranching will likely soon come to an end.

Those opposing final passage contended:

We have three major objections to this bill. First, it tilts too heavily in favor of grazing interests, to the detriment of all other public land users. Second, it overly restricts public involvement in grazing decisions. Third, it applies excessive restrictions on the ability of public land managers to protect the land. Passing this bill will not solve the controversy over grazing on Federal lands--it will intensify it. A more balanced bill is needed.

The bill tilts in favor of grazing interests in several ways. First, it is silent on the issue of whether grazing allotments can be used for conservation use. By remaining silent, the current legal situation which bars such use will be allowed to stand. Thus, when land management experts believe that the best use for a particular parcel of land may be to rest it, and when a conservation group is ready

and willing to pay for the lease for that land to rest it, those experts will instead be forced to issue a lease to have the land grazed. Another means by which this bill tilts too heavily in favor of grazing interests is that it will allow those interests to hold title to permanent improvements they make on Federal lands. At present, the BLM allows them to hold title but the Forest Service does not.

The next major problem with this bill is that it will virtually end all public involvement in grazing decisions. Some of us agree with our colleagues that the current process is being abused by some people to tie up routine decisions by making endless frivolous appeals, but our colleagues have overreacted. They have attached restrictions that will make it impossible for anyone but ranchers to make administrative appeals. They have also severely limited the application of the NEPA to grazing decisions. Under this bill, activities that may be very environmentally destructive in a particular area, but which are generally permitted under a land use plan, will not be legally challengeable.

Our third area of concern is that this bill will restrict the ability of land managers to make decisions that in their judgment are necessary to protect the rangeland. Instead of placing restrictions on a site-specific basis, they will first have to develop land use plans and then make restrictions in accordance with those plans. Further, before monitoring ranchers to make sure they are being responsible stewards of the land, land managers will be required to give them 48-hours notice.

Many of us agree that the current grazing regulations are hostile to ranchers and need to be reformed. However, this bill goes too far. Just a few decades ago, ranchers pretty much had the rangeland to themselves. Rapid growth in the West, though, has brought in new users of the land. Ranchers are going to have to learn that multiple use really means multiple use--every American is entitled to enjoy, and use, the public lands. We are not willing to shut off access to the public lands of the West for everyone but ranchers. We therefore oppose this bill.